

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: H [REDACTED] R [REDACTED]	Team: Squad #1	CCRB Case #: 201904924	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 06/06/2019 10:30 PM	Location of Incident: 671 Mother Gaston Boulevard	Precinct: 73	18 Mo. SOL 12/06/2020	EO SOL 7/23/2021	
Date/Time CV Reported Fri, 06/07/2019 1:06 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/07/2019 1:06 AM		

Complainant/Victim	Type	Home Address
1. D [REDACTED] M [REDACTED]	Comp/Witness	[REDACTED]
2. J [REDACTED] G [REDACTED]	Victim	[REDACTED]
3. An individual	Victim	Unknown

Subject Officer(s)	Shield	TaxID
1. POM J [REDACTED] K [REDACTED]	[REDACTED]	[REDACTED]
2. POM N [REDACTED] S [REDACTED]	[REDACTED]	[REDACTED]
3. LT Favio Quizhpi	[REDACTED]	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A . LT Favio Quizhpi	Abuse of Authority: Lieutenant Favio Quizhpi stopped J [REDACTED] G [REDACTED].	A . Exonerated
B . POM J [REDACTED] K [REDACTED]	Abuse of Authority: Police Officer J [REDACTED] K [REDACTED] frisked J [REDACTED] G [REDACTED].	B . Exonerated
C . POM J [REDACTED] K [REDACTED]	Abuse of Authority: Police Officer J [REDACTED] K [REDACTED] searched the vehicle in which J [REDACTED] G [REDACTED] was an occupant.	C . Exonerated
D . LT Favio Quizhpi	Abuse of Authority: Lieutenant Favio Quizhpi searched the vehicle in which J [REDACTED] G [REDACTED] was an occupant.	D . Exonerated
E . POM N [REDACTED] S [REDACTED]	Abuse of Authority: Police Officer N [REDACTED] S [REDACTED] searched the vehicle in which J [REDACTED] G [REDACTED] was an occupant.	E . Exonerated
F . POM J [REDACTED] K [REDACTED]	Other: Police Officer J [REDACTED] K [REDACTED] improperly used his body-worn camera according to Patrol Guide Procedure 212-123.	F . Other Misconduct
G . POM N [REDACTED] S [REDACTED]	Other: Police Officer N [REDACTED] S [REDACTED] improperly used his body-worn camera according to Patrol Guide Procedure 212-123.	G . Other Misconduct
H . LT Favio Quizhpi	Other: Lieutenant Favio Quizhpi improperly used his body-worn camera according to Patrol Guide Procedure 212-123.	H . Other Misconduct
I . LT Favio Quizhpi	Other: Lieutenant Favio Quizhpi failed to prepare a stop and frisk report as required by Patrol Guide Procedure 212-11.	I . Other Misconduct

Case Summary

On June 7, 2019, D [REDACTED] M [REDACTED], Council Member for the 27th District of New York City, filed the following complaint with the CCRB via e-mail on behalf of J [REDACTED] G [REDACTED] and an unidentified male.

On June 6, 2019, at approximately 10:30 p.m., J [REDACTED] G [REDACTED] parked his vehicle at a fire hydrant in front of 671 Mother Gaston Boulevard in Brooklyn, with an unidentified male in the passenger seat. Police Officer J [REDACTED] [REDACTED], Police Officer N [REDACTED] S [REDACTED], and Lieutenant Favio Quizhpi from PSA2 approached Mr. G [REDACTED]'s vehicle and asked for Mr. G [REDACTED]'s documents (**Allegations A – Abuse of Authority: Exonerated**). Mr. G [REDACTED]'s vehicle had an odor of marijuana. PO [REDACTED] asked Mr. G [REDACTED] and his unidentified passenger to step out of the vehicle and PO [REDACTED] frisked Mr. G [REDACTED] (**Allegation B- Abuse of Authority: Exonerated**). All three officers then searched the vehicle (**Allegations C, D and E – Abuse of Authority: Exonerated**). During the incident, PO [REDACTED], PO S [REDACTED] and Lt. Quizhpi improperly used their body-worn cameras (**Allegations F, G, H - Other Misconduct**). Additionally, Lt. Quizhpi failed to prepare a stop and frisk report as required (**Allegation I – Other Misconduct**). Mr. G [REDACTED] was not issued a summons or arrested.

There are two body-worn camera videos associated with this case (Board Review 01, 02).

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Favio Quizhpi stopped J [REDACTED] G [REDACTED] and an individual.

Allegation (B) Abuse of Authority: Police Officer J [REDACTED] [REDACTED] frisked J [REDACTED] G [REDACTED].

Allegation (C) Abuse of Authority: Police Officer J [REDACTED] [REDACTED] searched the vehicle in which J [REDACTED] G [REDACTED] was an occupant.

Allegation (D) Abuse of Authority: Lieutenant Favio Quizhpi searched the vehicle in which J [REDACTED] G [REDACTED] was an occupant.

Allegation (E) Abuse of Authority: Police Officer N [REDACTED] S [REDACTED] searched the vehicle in which J [REDACTED] G [REDACTED] was an occupant.

Councilman M [REDACTED] provided a telephone statement to the CCRB on June 10, 2019 but did not provide a verified statement. The CCRB was unable to get in touch with Mr. G [REDACTED] or identify the passenger in his vehicle.

During his telephone statement, Councilman M [REDACTED] stated that Mr. G [REDACTED] was parked in front of a fire hydrant and an unmarked police vehicle pulled up in front. Councilman M [REDACTED] approached the officers during the stop and the officers explained that they approached Mr. G [REDACTED] for parking at a hydrant and because they smelled marijuana. Councilman M [REDACTED] denied that there was an odor of marijuana.

Body-worn camera videos were obtained for PO [REDACTED] and PO S [REDACTED]. At the 22:31:37 mark of PO S [REDACTED]'s body-worn camera video footage (Board Review 01), Mr. G [REDACTED] said that his vehicle always smells like weed. He then showed PO [REDACTED] several air fresheners and said, "This don't work." At 22:31:45, PO [REDACTED] asked Mr. G [REDACTED] if there is anything crazy in the car and Mr. G [REDACTED]'s reply was inaudible. PO [REDACTED] then asked Mr. G [REDACTED] to step out of the vehicle. PO [REDACTED] patted down Mr. G [REDACTED] and then PO S [REDACTED] asked him to step to the back of the vehicle. At 22:32:18, PO Salvadori asked Mr. G [REDACTED], "So what happened to your license? You lost it?" and Mr. G [REDACTED] replied, "Yeah." At 22:33:01, PO [REDACTED] asked Mr. G [REDACTED], "Why does your car always smell like weed? You gotta change something about it, cause you're always going to get searched."

At the 22:33:31 mark of PO [REDACTED]'s body-worn camera footage (Board Review 02), PO [REDACTED] and Lt. Quizhpi searched the vehicle. PO [REDACTED] searched the inside door panel and looked around the seats with his flashlight. PO [REDACTED] then opened the back passenger door and looked around the seats with his flashlight. At 22:35:57, PO S [REDACTED] asked PO [REDACTED] to tell Mr. G [REDACTED] to open the trunk and Mr. G [REDACTED] did. PO Salvadori looked around the trunk and moved items around while using a flashlight. PO [REDACTED] and PO S [REDACTED] provided their business cards to Mr. G [REDACTED] and PO S [REDACTED] told Mr. G [REDACTED] "Try to find parking, alright?" The officers entered their vehicle and left the location.

Councilman M [REDACTED] arrived at the scene and appeared on PO [REDACTED]'s body-worn camera video at 22:35, near the conclusion of the incident. PO Kwan and Lt. Quizhpi told Councilman M [REDACTED] that he could remain on site but had to back away. Councilman M [REDACTED] asked the officers if they gave their business cards and PO [REDACTED] replied that they would get them at the conclusion of the car stop.

Vehicle Traffic Law: Article 32, Section 1202 (3b) states that no person shall stop, stand, or park within fifteen feet of a fire hydrant (Board Review 03). The smell of marijuana is sufficient to provide officers with probable cause to search an automobile and its occupants. People v. Chestnut, 43 A.D.2d. 260 (1974) (Board Review 05).

Based on Councilman M [REDACTED]'s phone statement and a GoogleMaps Street View photo, it is undisputed that Mr. [REDACTED]'s vehicle was parked at a fire hydrant (Board Review 06). Additionally, the investigation determined that Mr. G [REDACTED]'s vehicle smelled like marijuana as he admitted to it during the body camera videos.

Since Mr. G [REDACTED] was parked at a fire hydrant and he admitted that his vehicle smelled like marijuana, the investigation determined by a preponderance of the evidence that the officers were justified in stopping and frisking Mr. G [REDACTED] and searching his vehicle. It is therefore recommended that **Allegations A through E be closed as Exonerated.**

Allegation (F) Other Misconduct: Police Officer J [REDACTED] [REDACTED] improperly used his body-worn camera according to Patrol Guide Procedure 212-123.

Allegation (G) Other Misconduct: Police Officer N [REDACTED] S [REDACTED] improperly used his body-worn camera according to Patrol Guide Procedure 212-123.

Allegation (H) Other Misconduct: Lieutenant Favio Quizhpi improperly used his body-worn camera according to Patrol Guide Procedure 212-123.

Patrol Guide Procedure 212-123 states that a member of service must activate their body-worn camera prior to engaging in, or assisting another uniformed member of service with interactions with persons receiving a summons, except for a parking violation summons unless the owner/operator is present (Board Review 08).

PO [REDACTED] and PO S [REDACTED] activated their body-worn cameras after their interactions with Mr. G [REDACTED] and the unidentified passenger were well under way. Lt. Quizhpi did not activate his body-worn camera at all during this incident. Since Lt. Quizhpi, PO [REDACTED] and PO S [REDACTED] approached Mr. G [REDACTED]'s vehicle because of a parking violation and Mr. G [REDACTED] was present in the driver's seat, their body-worn cameras should have been activated upon approach.

As documented in the NYPD's BWC Deployment Roster, PO [REDACTED] PO S [REDACTED] and Lt. Quizhpi were all assigned body worn cameras for more than 90 days at the time of the incident. Since PO [REDACTED] and PO S [REDACTED] did not activate their body-worn cameras prior to engaging Mr. G [REDACTED], and Lt. Quizhpi did not activate his camera at all, it is therefore recommended that **Other Misconduct be noted for Allegations F, G and H.**

Allegation (I) Other Misconduct: Lieutenant Favio Quizhpi failed to prepare a stop and frisk report as required by Patrol Guide Procedure 212-11.

Officers did not prepare any stop and frisk reports in regards to the stop of Mr. G [REDACTED] and his unidentified passenger.

Patrol Guide Procedure 212-11 states that officers are required to file a stop and frisk report each time they conduct a Level Three stop on an individual that does not lead to an arrest (Board Review 09).

Since Lt. Quizhpi supervised the stop of Mr. G [REDACTED] and his unidentified passenger and no stop and frisk report was prepared for this incident, it is therefore recommended that **Other Misconduct be noted for Lt. Quizhpi in Allegation I.**

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which D [REDACTED] M [REDACTED] has been a party.
- This is the first CCRB complaint to which J [REDACTED] G [REDACTED] has been a party.
- Police Officer J [REDACTED] [REDACTED] has been a member of service for three years and has been the subject in three prior CCRB complaints and two allegations, neither of which were substantiated. PO [REDACTED]'s CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Police Officer N [REDACTED] S [REDACTED] has been a member of service for three years and has been the subject in two prior CCRB complaints and two allegations, neither of which were substantiated. PO S [REDACTED]'s CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Lieutenant Favio Quizhpi has been a member of service for 10 years and has been a subject in five prior CCRB complaints and 14 allegations, none of which have been substantiated. Lt. Quizhpi's CCRB history does not reflect any apparent pattern pertinent to this investigation.

Mediation, Civil and Criminal Histories

- Councilman M [REDACTED] declined to mediate this complaint.
- A Notice of Claim request was sent to the NYC Comptroller's office and the results will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), Councilman M [REDACTED] and Mr. G [REDACTED] have no history of convictions in New York City (Board Review 07).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date